

## **Remarks/Arguments**

### **A. Status of the Claims**

Claims 1, 10-12, 23, 30, 40, and 41 are revised to further define the compound of formula I, non-limiting support for which can be found in the specification and claims as originally filed (*see, e.g.*, original claims 10-11). Claims 28 and 33 are revised to correct typographical errors. Claims 43-48 are added, non-limiting support for which can be found in the specification and claims as originally filed (*see, e.g.*, original claim 10). Claims 2-9, and 35-39 are cancelled.

Therefore, claims 12-22 and 43 are pending, with claims 1, 10-11, 23-34, 40-42, and 44-48 currently withdrawn from consideration.

### **B. Interview Summary and Restriction Requirement**

On August 31, 2009, Applicant's representative, Michael R. Krawzsenek, and Examiner Leah H. Schlientz discussed *via* telephone the Restriction Requirement previously issued in this case. Applicant's representative informed Examiner Schlientz that (1) the primary claims for this case are compound claims 1, 10, 11, and 42-43 and (2) all of the independent claims would be revised to be directed to one of two particular compounds so as to establish unity of invention. This has been done. These compounds are neither disclosed nor suggested in the cited art. Therefore, all of the pending and withdrawn claims share a special technical feature—that being the two compounds defined by formula I. Stated another way, all of the claims share a unity of invention, which provides a basis for rejoinder.

In view of the above, Applicant requests that all of the pending claims be considered in the present case, or at the very least, that compound claims 1, 10, 11, and 42-43 be rejoined and considered. Applicant thanks Examiner Schlientz for providing her time to discuss the nature of

the Restriction Requirement and the corresponding claim amendments that have been made in this case.

**C. Obviousness Rejection**

Claims 12-22 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Permettis *et al.* in view of Phillips and in further view of Gupta *et al.* Action at pages 3-4.

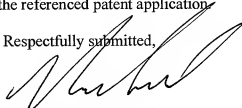
Applicant respectfully disagrees (*e.g.*, there is no apparent reason nor a reasonable expectation of success to substitute an HMPAO compound for a SNS/S compound in the manner suggested at pages 7-8 of the Action). However, in an effort to further the prosecution of this case and secure prompt allowance, the claims are revised to two particular compounds defined by formula I. Neither of these compounds are disclosed nor suggested in the cited art references. *KSR* requires at least this much. *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007); *see also CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (“obviousness requires a suggestion of all limitations in a claim”) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)).

Therefore, Applicant requests that the obviousness rejection be withdrawn.

**D. Conclusion**

Applicant believes that this case is in condition for allowance and such favorable action is requested. The Examiner is invited to contact the undersigned Attorney at 512.536.3020 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: October 1, 2009